

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**VR GLOBAL PARTNERS, L.P. PATON HOLDINGS
LTD., VR CAPITAL GROUP LTD., AND VR
ARGENTINA RECOVERY FUND, LTD.,**

Plaintiffs,

- against -

PHILIP R. BENNETT, ET AL.,

Defendants.
-----X

No. 07 Civ. 8686 (GEL)

FILED ELECTRONICALLY

**CAPITAL MANAGEMENT SELECT FUND
LTD., INVESTMENT & DEVELOPMENT
FINANCE CORPORATION, IDC FINANCIAL S.A.,**

Plaintiffs,

- against -

PHILIP R. BENNETT, ET AL.,

Defendants.
-----X

No. 07 Civ. 8688 (GEL)

**DECLARATION OF MATTHEW J. SAVA
IN SUPPORT OF DEFENDANTS JOSEPH J. MURPHY'S AND
WILLIAM M. SEXTON'S MOTION TO DISMISS THE COMPLAINTS**

MATTHEW J. SAVA hereby declares under penalty of perjury:

1. I am a partner in the law firm Shapiro Forman Allen & Sava LLP, attorneys for defendant Joseph J. Murphy. I respectfully submit this Declaration in support of the joint motion by defendants Murphy and William M. Sexton to dismiss the Complaints in the above-captioned actions.

2. Attached hereto as Exhibit A is an excerpt of the transcript of testimony by

Thomas Yorke (“Yorke”) at a hearing before the Honorable Robert D. Drain in the United States Bankruptcy Court for the Southern District of New York in connection with the Refco bankruptcy. Mr. Yorke, a former Executive Vice President of Refco Capital Markets, Ltd. (“RCM”) on its Global Execution and Finance Desk, testified in connection with a hearing before Judge Drain regarding procedures followed by RCM with respect to customer securities.

3. Mr. Yorke’s testimony took place over three days in early 2006 (February 28, March 3 and March 6). Mr. Yorke’s testimony is cited, referred to and relied upon in the Complaints in the above-captioned actions. Plaintiffs do not, and cannot, allege in their Complaints that Mr. Yorke ever mentioned Joseph Murphy or William Sexton in his testimony, which I have independently confirmed based on a review of the more than 750 transcript pages of Mr. Yorke’s testimony.

Dated: New York, New York
February 21, 2008

/s/
Matthew J. Sava

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re the Matter of: : 05-60006
:
REFCO, INC., : One Bowling Green
:
Debtors. : New York, New York
:
-----X : March 3, 2006
:
OFFICIAL COMMITTEE OF UNSECURED : 05-03331
CREDITORS, :
:
Plaintiffs, :
:
v. :
:
JOHN DOE, et al., :
:
Defendants. :
-----X

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE ROBERT D. DRAIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtor: RICHARD B. LEVIN, ESQ.
Skadden, Arps, Slate, Meagher
& Flom, LLP
Four Times Square
New York, New York 10036

For Plaintiffs: MATTHEW BARV, ESQ.
Milbank, Tweed, Hadley & McCloy
One Chase Manhattan Plaza
New York, New York 10005

For Bank of America: THOMAS TORMEY, ESQ.
Davis, Polk & Wardwell
450 Lexington Avenue
New York, New York 10017

(Appearances continued on next page)

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

APPEARANCES (Continued)

Court Transcriber: STACEY DELSOLE
TypeWrite Word Processing Service
356 Eltingville Boulevard
Staten Island, New York 10312

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

Litt - Cross

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1 MR. LITT: Your Honor, I'm going to ask him some
2 questions about it. I just want him to understand that he saw
3 it.

4 Q By the way, had you read that language before this
5 bankruptcy?

6 A I have probably just reviewed the customer accounts on a
7 cursory basis prior to the bankruptcy.

8 Q A cursory basis.

9 A Correct.

10 Q Is that right?

11 A Yes.

12 Q But it's this agreement that you base your contention that
13 you had a right to hypothecate customer securities, right?

14 A Yes.

15 Q You ran the desk that hypothecated more than \$2 billion of
16 customer securities and in your words pushed it up to Refco
17 Capital and the Refco empire and had no idea of the basis for
18 doing it?

19 A Well, that's not correct.

20 Q So what was your basis?

21 A Well, my basis was that when I came on in '97 I was
22 working for two years for someone who was running this business
23 and he explained to me how the business worked and how we were
24 to run it. And then when he left I took over and ran the
25 business in the manner that it had been run for the two years

Litt - Cross

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1 that I originally joined the business. I understood it to be
2 run in connection with Refco's rights as a result of it being a
3 Bermudian entity.

4 Q So as a result, you never had occasion, or thought about,
5 reading this customer agreement?

6 A No, I would have, like I said, looked at one on a cursory
7 basis from time to time.

8 Q Would you turn to page CMSF 14, which I believe it page
9 14. Yes. This document also describes [inaudible] from that
10 paragraph, right? Down in the Miscellaneous under where we
11 define what Refco is about in the Miscellaneous section?

12 A It says "Trades executed at Refco" and then --

13 Q Then go down.

14 A -- I add down below it says "Trades executed away from
15 Refco".

16 Q But cleared by Refco, right?

17 A Yes.

18 Q That's called what?

19 A Well, they have in brackets here, Prime Brokerage, but I
20 hesitate to describe clearing a trade away as Prime Brokerage.

21 Q But RCM described to their clients this was Prime
22 Brokerage, right?

23 A Well, I wouldn't describe this -- I don't think there's
24 any section in here in this particular agreement describing
25 Prime Brokerage.